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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

WALTER SPURLOCK and ANDRE  
GUIBERT,

## Plaintiffs,

V.

CITY AND COUNTY OF SAN FRANCISCO, AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO, KEABOKA MOLWANE in his individual capacity and official capacity as Aviation Security and Regulatory Compliance Officer at the San Francisco International Airport, and JEFF LITTLEFIELD in his individual capacity and official capacity as Chief Operating Officer at San Francisco International Airport.

#### Defendants.

Case No. 3:23-cv-4429

**DEFENDANTS' ADMINISTRATIVE MOTION  
TO FILE UNDER SEAL PORTIONS OF  
DEFENDANTS' MOTION TO DISMISS  
SECOND AMENDED COMPLAINT**

Hearing Date: May 23, 2024  
Time: 2:00 p.m.  
Before: Hon. Araceli Martínez-Olguín  
Place: 450 Golden Gate Avenue  
Courtroom 10  
San Francisco, CA 94102

Date Action Filed: August 28, 2023

1                   **ADMINISTRATIVE MOTION TO SEAL DOCUMENT**

2                   Pursuant to Civil Local Rules 79-5 and 7-11, Defendants the City and County of San Francisco, the  
 3                   Airport Commission of the City and County of San Francisco, Jeff Littlefield, and Keaboka Molwane  
 4                   (collectively, “San Francisco” or “Defendants”) move to file under seal portions of Defendants’ Motion to  
 5                   Dismiss the Second Amended Complaint that refer to redacted parts of Plaintiffs’ Second Amended  
 6                   Complaint (“SAC”). Plaintiffs filed their SAC partially under seal because it refers to a federal guidance  
 7                   document issued by the Transportation Security Administration (“TSA”), TSA-NA-21-01A (the “TSA  
 8                   Guidance”), that is “sensitive security information” (“SSI”) not subject to public disclosure under  
 9                   federal regulations. 49 C.F.R. § 1520.5(a), (b)(1), and (b)(2).<sup>1</sup> Plaintiffs also attached the TSA  
 10                  Guidance as Exhibit G to Plaintiffs’ SAC. Dkt. No. 43-7 [redacted version]; Dkt. No. 44-5  
 11                  [unredacted version filed under seal].

12                  To avoid unsealing what Plaintiffs have sealed, and because the contents of the TSA Guidance are  
 13                  SSI that parties must protect from public disclosure, San Francisco will file its Motion to Dismiss the SAC  
 14                  conditionally under seal pending the Court’s ruling on this administrative motion.

15                  Local Rule 79-5 authorizes a document to be filed under seal when it is established that the  
 16                  document contains information that is privileged or otherwise entitled to protection under the law. In the  
 17                  Ninth Circuit, “documents attached to dispositive motions must meet the high threshold of showing that  
 18                  ‘compelling reasons’ support secrecy.” *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179-1180  
 19                  (9th Cir. 2006). Here, this standard is met by binding federal regulations preventing the public disclosure  
 20                  of the contents of the TSA Guidance because it is SSI. 49 C.F.R. § 1520.5(a), (b)(1), and (b)(2); *see also*  
 21                  49 C.F.R. § 1520.15(a).

22                  Local Rule 79-5 requires a party seeking to file material under seal to explain: (i) the legitimate  
 23                  private or public interests that warrant sealing; (ii) the injury that will result if sealing is denied; and (iii)  
 24                  why a less restrictive alternative to sealing is not sufficient. The first factor is satisfied because the federal  
 25                  government has determined that public disclosure of the contents of the TSA Guidance would constitute an  
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27                  <sup>1</sup> The TSA Guidance was previously shared with the Court as an exhibit filed under seal in support  
 28                  of Defendants’ Request for Judicial Notice in Support of Motion to Dismiss the First Amended  
                       Complaint. See Dkt. No. 36; Dkt. No. 38-4.

1 unwarranted invasion of privacy, reveal trade secrets or privileged or confidential information obtained  
2 from any person, or be detrimental to the security of transportation. 49 C.F.R. § 1520.5(a). Hence, there  
3 are legitimate public interests that warrant sealing, as codified by 49 C.F.R. § 1520.5. On the second  
4 factor, multiple injuries would result if sealing is denied. Such action would be detrimental to the security  
5 of transportation, would reveal trade secrets or other privileged or confidential information, or would  
6 constitute unwarranted invasion of privacy. Additionally, San Francisco could potentially be subject to  
7 penalties for the unauthorized disclosure of SSI. *See* 49 C.F.R. § 1520.17; Declaration of Molly J. Alarcon  
8 ISO Administrative Motion to Seal at ¶ 4. As to the third factor, San Francisco has chosen a less restrictive  
9 alternative than sealing its entire Motion to Dismiss the SAC, and has only redacted references to what  
10 Plaintiff redacted as confidential or SSI. *See* Declaration of Molly J. Alarcon ISO Administrative Motion  
11 to Seal at ¶ 5.

12 For the reasons stated herein, San Francisco respectfully requests that San Francisco be permitted  
13 to file an unredacted version of its Motion to Dismiss the SAC under seal, along with a redacted public  
14 version.

15 Dated: February 22, 2024

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20 By: /s/ MOLLY J. ALARCON  
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22 Attorneys for Defendants